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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,772	02/09/2004	Joseph J. Tracy	20339.10	8834

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BRYAN W. BOCKHOP, ESQ.
2375 MOSSY BRANCH DR.
SNELLVILLE, GA 30078

EXAMINER

MOSSER, ROBERT E

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,772

Applicant(s)

TRACY ET AL.

Examiner

Robert Mosser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/22/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed April 22nd, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered beyond the cited United States patent documents.

Claim Objections

Claims **6** and **11** are objected to because of the following informalities:

Line 2 of claim 6 presents a "wagering gam" which has been interpreted as a "wagering game";

Line 5 of claim 6 presents the phrase "from th entrants wherein each ntrant" which has been interpreted as "from the entrants wherein each entrant";

Line 5 of claim 11 presents the term "wh r in" which has been interpreted as "wherein"; and

Line 8 of claim eleven presents the term "det rmining" which has been interpreted as "determining".

The presented specification and abstract are replete with similar omissions and misspellings.

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Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1-9** and **11** are rejected under 35 U.S.C. 102(e) as being anticipated by

The History of Horse Racing.

With regards to claims **1, 4, 6, and 11**, A first entry from at least one entrant wherein said entrant has made a first wager on the outcome of a horse race is understood as the placing of a first type of bet.

The receiving of a second entry from the at least one entrant wherein said at least one entrant has made a second wager dependent on the winning outcome of the first wager is understood as the placing of a second bet wherein the predicted outcomes may or may be the same however still reliant in a particular event. Per example if a player wagers that horse numbers 5 and 3 to both win the same race then quite clearly only one of the horses could win if the remaining horse did not win. Hence this feature

is inherent to horse race wagering since by definition multiple wagers on the same race must be dependent on each other in some form or another.

Awaiting the outcome of the horse race and determining if the at least one entrant has a winning first wager is consider inherent to the function of Horse betting as bets are placed to predict the outcomes of future sporting events with the expectation of receiving monetary compensation for correct predictions (determined by the event outcome) based at least in part on the amount wager associated with said prediction.

Multiplying the winning wager by a multiplier value and adding the value of the wager to the multiplied value of the winning wager together before paying the combination amount to the at least one entrant is equated to the payout of a race. Wherein if the odds for a Horse wager were 15:1 for a particular wager the payout would return our original bet plus your original bet multiplied by 15 (See History of Horse Racing pages 3-4).

With regards to claims **2-3**, and **7-8**, the value of the multiplier or equivalently described as the odds inherently exist prior to the first wager even if they are a default value however as each wager is placed the odds are recalculated in order to control the maximum payout the track would be subject to. Hence the selection of the multiplier occurs multiple times during the entry of wagers (See History of Horse Racing pages 3-4).

With regards to claim **5**, the multiplier or alternatively described odds are based on the type of bet and horse(s) chosen for said bet hence any number of the same

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wager (type and size), bet on the same horse, receive the same odds and hence multiplier

With regards to claim 9, the multiplier is selected and locked prior to the start of a race in horse racing and hence selected prior to the conclusion of the race (See History of Horse Racing pages 3-4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over The History of Horse Racing.

With regards to claim 10, the selection of the multiplier value after the conclusion the racing event is considered to be met in so much as a final value of the multiplier utilized in the payout processing of player wagers at the conclusion of the sports event

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(horse race). Alternatively it would have been obvious to one of ordinary skill in the art at the time of invention to select the value of the multiplier at the conclusion of the race on the occurrence of tampering during the race to avoid corrupt gaming.

Remarks

As of present the instant claims seem to be directed to horse wagering as it has generally existed since the at least early 20th century. The presented claim limitations address this correlation however in the interest of furthering prosecution the following references have been included for their teaching regarding traditional horse wagering and to assist the applicant in their consideration of any future amendments:

Horse Betting Tutorial – Types of Bets

(www.homepokergames.com/horsebettingtutorial.php)

Beginner's Guide How to Bet (www.plimico.com/How+to+wager/beginnersguide/)

Racing Daily Form – Learn to Play the Races

Algie (US 5,564,977) – Integrated racetrack display system.

Brenner et al (US 5,830,068) – Interactive wagering system.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM



JESSICA HARRISON
PRIMARY EXAMINER